

## INTERFERENCE DIGEST

Interference No. 104,792

Paper No. 25

Name: Stephen Eisenberg et al.

Serial No.: 08/485,438

Patent No.

Title: INHIBITION OF RETROVIRUS INFECTION

Filed: 06/07/95

Interference with Lezdey et al.

### DECISION ON MOTIONS

Administrative Patent Judge, \_\_\_\_\_ Dated, \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### FINAL DECISION

Board of Patent Appeals and Interferences, favorable Dated, 5-2003

\_\_\_\_\_

Court, \_\_\_\_\_ Dated, \_\_\_\_\_

### REMARKS

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\_\_\_\_\_  
\_\_\_\_\_

This should be placed in each application or patent involved in interference in addition to the interference letters.

MAIL STOP INTERFERENCE  
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Paper 5726

UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

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Interference No. 104,792

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**SONORAN DESERT CHEMICALS LLC**

(5,532,215),  
Junior Party,

**FAXED**

v.

**MAY 20 2003**

**STEPHEN EISENBERG,**  
**SHARON M. WAHL, and ROBERT C. THOMPSON**  
(08/485,438),  
Senior Party.

**PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES**

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Before **TORCZON, LANE, and NAGUMO**, Administrative Patent Judges.

**JUDGMENT**  
(PURSUANT TO 37 CFR § 1.662(a))

**INTRODUCTION**

On 19 May 2003 at about 2 p.m. (Eastern), the parties initiated a telephone conference involving John Lezdey for Sonoran Desert Chemicals LLC (SDC), Paul Barker and Robert Sharp for Eisenberg, and Richard Torczon for the Board of Patent Appeals and Interferences. The parties were required to have settled the case or to have filed preliminary statements by the close of business on 19 May 2003.

Mr. Lezdey indicated that collateral litigation bars him from taking further action in this interference. The parties indicated that neither side would be filing a preliminary statement. Failure of a junior party to file a timely preliminary statement ordinarily results in the issuance of an order to show cause against the junior party. In the present circumstances, there would be no

point to such an order since Mr. Lezdey has indicated that he cannot respond. Consequently, SDC has abandoned the contest within the meaning of 37 C.F.R. § 1.662(a).

ORDER

Based on the status of the proceeding and of the parties, it is:


ORDERED that judgment on priority as to Count 1 is awarded against junior party Sonoran Desert Chemicals LLC;


FURTHER ORDERED that Sonoran Desert Chemicals LLC, John Lezdey, and Allan Wachter, jointly and severally, are not entitled to a patent containing claims 1 and 3-5 of SDC's 5,532,215 patent, which correspond to Count 1;

FURTHER ORDERED that any request for reconsideration be filed within one month from the date of this judgment; and

FURTHER ORDERED that a copy of this decision be entered in the administrative record of SDC's 5,532,215 patent and of Eisenberg's 08/485,438 application.

  
RICHARD TORCZON  
Administrative Patent Judge

  
SALLY GARDNER LANE  
Administrative Patent Judge

  
MARK NAGUMO  
Administrative Patent Judge

BOARD OF PATENT  
APPEALS AND  
INTERFERENCES

INTERFERENCE  
TRIAL SECTION

cc (facsimile):

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